

## TENTATIVE RULINGS

**FOR: May 11, 2018**

The Court may exercise its discretion to **disregard** a late filed paper in law and motion matters. (Cal. Rules of Court, rule 3.1300(d).)

**Unlawful Detainer Cases** – Pursuant to the restrictions in Code of Civil Procedure section 1161.2, no tentative rulings are posted for unlawful detainer cases and appearances are required.

**Court Reporting Services** – The Court does not provide official court reporters in proceedings for which such services are not legally mandated. These proceedings include civil law and motion hearings. If counsel want their civil law and motion hearing reported, they must arrange for a private court reporter to be present. Go to <http://napacountybar.org/court-reporting-services/> for information about local private court reporters. Attorneys or parties must confer with each other to avoid having more than one court reporter present for the same hearing.

**PROBATE CALENDAR – Hon. Rodney Stone, Dept. I (Criminal Courts Bldg.-1111 Third St.) at 2:00 p.m.**

**In the Matter of the Gotelli Family Trust**

**18PR000069**

1) DEMURRER OF JIM NORD TO PETITION FOR ORDER CONCERNING THE INTERNAL AFFAIRS OF A TRUST OF PETITIONER JOHN GOTELLI

**TENTATIVE RULING:** The Request for Judicial Notice is GRANTED, pursuant to Evidence Code section 452, subdivision (h). (See also *Bridgeman v. Allen* (2013) 219 Cal.App.4th 288, 293 fn.1 [proper to take judicial notice of a Probate Code section 16061.7 notification] (*Bridgeman*).)

The Demurrer is SUSTAINED WITH LEAVE TO AMEND. Probate Code section 16061.8 sets forth a 120-day time period during which an action to contest a trust may be brought. The 120-day time period begins when notification pursuant to Probate Code section 16061.7 is provided. The section 16061.7 notification in this case was provided on August 16, 2017, which required an action to contest the trust be brought by December 28, 2017. This Petition expressly prays for the will of Jane M. Gotelli and the Ninth Amendment to the Gotelli Family Trust, both executed by Jane on May 6, 2016, be invalidated due to Jane M. Gotelli's lack of capacity, or in the alternative, undue influence[.] (Petition, at p. 15, lines 2-4.) Insofar as the Petition seeks to invalidate the Ninth Amendment to the Gotelli Family Trust, it is time barred. (*Bridgeman, supra*, 219 Cal.App.4th 288, 293-297.) Probate Code section 16061.8 cannot be interpreted to not apply to Petitioner because he only signed the notice and was not served with it.

Petitioner indicates in his opposition that he is seeking instructions pursuant to Probate Code section 17200, subdivision (a), regarding his service as Trustee of the Gotelli Family Trust. It appears that the instructions sought all relate to the invalidation of the Ninth Amendment, but

to the extent there may be issues separate and apart from the invalidation prayed for, the Court will allow leave to amend. Petitioner is to file his amended Petition, if any, by May 31, 2018.

2) PETITION FOR ORDER CONCERNING THE INTERNAL AFFAIRS OF A TRUST

**TENTATIVE RULING:** In light of the Court's ruling on the Demurrer above, the hearing on the Petition is dropped from calendar.

.....

**Conservatorship of Margaret Mitchell**

**26-64835**

SECOND ACCOUNTING AND REPORT OF CONSERVATOR; PETITION FOR ALLOWANCE OF FEES TO CONSERVATOR OF THE PERSON AND ESTATE, FOR ATTORNEYS FEES; PEITION FOR TERMINATION FO CONSERVATORSHIP AND FINAL DISCHARGE OF CONSERVATOR

**TENTATIVE RULING:** GRANT petition, including fees as prayed.

**CIVIL LAW & MOTION CALENDAR – Hon. Rodney Stone, Dept. I (Criminal Courts Bldg.-1111 Third St.) at 2:00 p.m.**

**In the Matter of Jordan Wayne Slavens**

**18CV000360**

PETITION FOR CHANGE OF NAME AND GENDER

**TENTATIVE RULING:** The petition is GRANTED without need for appearance. Petitioner shall file a certified copy of the Court's decree within 30 calendar days with the California Secretary of State and since a new birth certificate is requested, with the State Registrar. (Health & Safety Code, § 103435.) Upon its receipt, the State Registrar shall establish a new birth certificate as provided in the Health & Safety Code.

.....

**In the Matter of Chilton**

**17CV000565**

PETITION TO APPROVE COMPROMISE OF DISPUTED MINOR'S CLAIM

**TENTATIVE RULING:** The petition is DENIED WITHOUT PREJUDICE. Petitioner did not include: (1) documentation showing the reasonableness of the compromise of the claim for the minor, including copies of the medical bills; (2) a doctor's report/letter detailing the extent of the injuries, including the diagnosed injury and the current prognosis; (3) documentation confirming the amount of the medical lien and/or the amount paid by Medi-Cal; and (4) a declaration supporting the attorney's fees requested. (Cal. Rules of Court, rules 7.950, 7.952, 7.955.)